



PATENT
670001-2002.4
USSN 09/804,980

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Andersen
Serial No. : 09/804,980
Filed : March 13, 2001
Title : M. TUBERCULOSIS ANTIGENS
Group Art Unit : 1645
Examiner : Rodney P. Swartz

745 Fifth Avenue, New York, NY 10151

EXPEDITED PROCEDURE
RESPONSE AFTER FINAL ACTION
UNDER 37 C.F.R. §1.116

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Date of Deposit: July 12, 2004

I hereby certify that this paper or fee is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" Service under 37 CFR 1.10 on the date indicated above and is addressed to: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Barnet Shindlman
(Type or printed name of person mailing paper or fee)
Barry Shindlman
(Signature of person mailing paper or fee)

TERMINAL DISCLAIMER

MAIL STOP AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This is in response to the Office Action mailed February 10, 2004 setting a three-month period for reply.

Claims 1-6, 9-11, 26, 28, 30, and 32 were rejected under the judicially created doctrine of obviousness-type double patenting as allegedly being unpatentable over claims 1-9 and 18-30 of U.S. Patent No. 5,955,077 ("the '077 patent). For the purposes of expediting prosecution, without any admission, without any prejudice, without surrender of subject matter, without any

intention of creating any estoppel as to equivalents, a Terminal Disclaimer as to the '077 patent is herewith provided herein:

I, Thomas J. Kowalski, declare that I am the attorney of record and that I am authorized to execute terminal disclaimers on behalf of Statens Serum Institut, the assignee of the above-captioned application ("the present application") and U.S. Patent No. 5,955,077 ("the '077 patent");

That Statens Serum Institut has a place of business at Artillerivej 5, DK-2300 Copenhagen S, DENMARK;

That Statens Serum Institut is the assignee of the entire right, title and interest in, to and under U.S. Application Serial No. 09/804,980, filed March 13, 2001 (the present application) as a continuation-in-part of U.S. Application Serial No. 09/289,388, filed April 12, 1999, which is a continuation of U.S. Application Serial No. 08/465,640, filed June 5, 1995, now U.S. Patent No. 5,955,077, by virtue of the assignment from the inventors as set out at Reel 011892 and Frame 0354, where said assignment was recorded at the U.S. Patent and Trademark Office on June 11, 2001;

That the Statens Serum Institut is the assignee of the entire right, title and interest in, to and under U.S. Application Serial No. 08/465,640, filed June 5, 1995, now U.S. Patent No. 5,955,077 ("the '077 patent"), by virtue of the assignment from the inventors as set out at Reel 007630 and Frame 0343, where said assignment was recorded at the U.S. Patent and Trademark Office on August 31, 1995

That Statens Serum Institut hereby disclaims the terminal part of any patent granted on the present application which would extend beyond the expiration date of the full statutory term of the '077 patent;

That Statens Serum Institut hereby agrees that any patent so granted on the present application shall be enforceable only for and during such period that the legal title to said patent shall be the same as the legal title to the '077 patent, this agreement to run with any patent granted on the present application and to be binding upon the grantee, its successors or assigns;

That no terminal part of any patent granted on the present application is disclaimed prior to the full statutory term of the '077 patent, in the event that said '077 patent earlier expires for failure to pay a maintenance fee, is held unenforceable, is found invalid, is statutorily disclaimed in whole or is terminally disclaimed under 37 C.F.R. §1.321(a), has all claims canceled by a

reexamination certificate, or is otherwise terminated prior to expiration of its full statutory term, except for the separation of legal title stated above;

In accordance with 37 C.F.R. § 3.73(b), the undersigned attorney of record, empowered to sign this Statement on behalf of the assignee, states that the Statens Serum Institut, is the assignee of the entire right, title and interest in the patent and patent application identified above (the present application and the '077 patent) by virtue of the assignment identified above.

And thus, that the undersigned has reviewed documents in the chain of title of the patent and patent application identified above and, to the best of the undersigned's knowledge and belief, title is in the assignee identified above.

Reconsideration and withdrawal of the double patenting rejection are respectfully requested; and, consideration and entry and recordal of this Terminal Disclaimer are also earnestly solicited, with any fee therefore or any overpayment in such fees, to be charged or credited to Deposit Account No. 50-0320.

CONCLUSION

Reconsideration and withdrawal of the rejections of the application are respectfully requested in view of this Terminal Disclaimer, which place the application in condition for allowance. Prompt issuance of a Notice of Allowance is earnestly solicited.

The undersigned looks forward to hearing favorably from the Examiner at an early date.

Respectfully submitted,

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